NOTES ON THE IRISH LAND BILL.

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Preliminary.—As it stands, awaiting Second Reading, and allowing for all its drawbacks, the bill is undoubtedly a great, far-reaching, and epoch-making measure. For the first time in the history of Irish agrarian legislation, the total abolition of dual ownership in the soil is frankly contemplated. To achieve this great end Imperial credit is guaranteed to the extent of £100,000,000, and a Grant in Aid by the State of £12,000,000 is provided for the express purpose of facilitating the transfer of the land from owner to occupier. Whether the provisions of the bill are sufficient to complete the great enterprise contemplated by its authors is a matter for discussion hereafter, when the Committee stage is reached. Its success will depend upon a multitude of circumstances, some of which are discussed in these Notes. But frank admission may at once be made of the boldness which inspires its leading provisions; and the hope may also be expressed that the courage of its authors may not fail in the more critical stages of the measure.

The Financial Provisions as they affect Landlord and Tenant.—So far as landlord and tenant are concerned, the question narrows itself to a single and, at first sight, a simple issue. The one asks: "What am I to receive for my property?" The other asks: "What am I to pay for the freehold of the land I cultivate and partly own"? The bill, with its ninety clauses, really centres in the reply to these two questions, and the first thing to be done is to discover and make plain the exact plan of the measure so far as these two points are concerned. Put in the shape of propositions the proposals of the Government are as follows:

1. In the case of purchase of First Term Rents, *i. e.*, rents fixed by the Land Court for the first statutory period of fifteen years—

the terminable annuities to be paid by the tenant purchaser must be at least 20, and not more than 40, per cent. below the rent;

2. In the case of purchasers of Second Term Rents, the terminable annuity to be paid by the tenant purchaser must be at least 10, and not more than 30, per cent. below the rent.

The price, it will be observed, is to be matter of negotiation and arrangement between landlord and tenant, between the vendor and the purchaser. If the parties agree, within the prescribed limits, there is no more to be said. The provision of the bill on this head is mandatory. If the tenant purchaser is "in occupation of the holding," and the purchase is within the prescribed limits, the Land Commission "*shall* sanction the advance." The first question which presents itself at this point, if the price is to be matter of bargain between landlord and tenant—a thing, by the way, which the Land Conference did not contemplate—is, Why should any maximum limit be fixed? Why limit the bargaining power of vendor and purchaser? There is infinite variety in Irish land and in the circumstances of Irish landowners. Why then should this rigid limit be enforced? Why, by fixing a maximum reduction, should we really fix a minimum price? If there be landlords willing, under all the circumstances of the case, to give a larger abatement than 40 per cent. on First Term or 30 per cent. on Second Term rents, why should they be restrained? Clearly, the maximum ought either wholly to disappear, or it ought to be reduced say to 50 in the one case and to 40 in the other.

The Case of Rents not Fixed by Judicial Authority.—The bill is quite clear in regard to rents fixed by judicial authority. It is otherwise in regard to rents not so fixed. There are, for example, many thousands of future tenants—*i. e.*, tenants excluded from the rent-fixing clauses of the Land Bill of 1881. There are also thousands of tenants who have never gone into the Land Courts, who, it may be, have been kept out by arrears, and owing to other causes. Is the "existing rent" referred to in Clause I, to be the basis of agreement in all such cases? If so, a manifest injustice will be done to thousands of tenants. Again, thousands of tenants have not gone into court because their rents were not rack-rents, and because their landlord allowed annual abatements. Is no account to be taken, in fixing the purchase price, of such abatements? These questions raise a very serious issue which has

apparently been overlooked, but which must be faced and dealt with in Committee on the bill.

The Question of Number of Years Purchase to be Paid under the Bill.—Having thus made clear the basis of purchase provided in the bill, another step may now be taken. The Government, following the procedure of the Land Conference, has not dealt with the question of price from the standpoint of any number of years' purchase of the rent. The basis of their scheme is not what number of years' purchase of the rent the tenant purchaser will pay; it is much more simple, and, in the main, more important—viz.: What will be the money difference between the First or Second Term rent which the tenant now pays and the Terminable Annuity under the bill which will carry the freehold? But in Ireland the rooted habit is to calculate the terms upon the basis of the number of years' purchase, and upon this basis alone. I think the habit is fallacious, and that, in the past, it has resulted in advantageous bargains being set aside. But, whether men like it or not, the question will assume this shape. The Chief Secretary for Ireland, and Irish members generally, will have to say what the terms proposed by the bill are, when reduced to years' purchase of the rent.

Let two supposititious cases therefore be taken.

Assume, first, that a tenant with a Second Term rent of £100 has arranged with his landlord to buy, under the provisions of the bill, at 20 per cent. reduction. This would mean that a terminable annuity of £80 would take the place of a Second Term rent of £100. But, under the bill, this would practically mean 25 years' purchase of the rent. I ignore for the time being, and purposely, the irredeemable character of one-eighth of the advance, and treat the matter upon the basis of the freehold being conveyed to the purchaser as under the present Acts. This may look a good bargain on paper. But it will stagger the ordinary tenant farmer alike of the North and South. Is it necessary for the tenant to pay such a price? The aim, of course, is two-fold—to enable the landlord to sell without appreciable loss of income and to keep down the amount of the State Grant. Is this price necessary even for such a purpose? No doubt, the tenant need not buy; he is not compelled to do so; or he may insist upon the maximum reduction in the bill of 30 per cent. But, assuming a desire to sell upon the part of the landlord, and a corre-

sponding desire to purchase on the part of the tenant, let us see what is possible. Take, as the second illustration, the same Second Term rent of £100. The landlord sells and the tenant buys at a rate which means 23 years' purchase of this rent. Twenty-three years' purchase of £100 produces a capital sum of £2,300. The landlord gets this sum in coin of the realm. What is he to do with it? Let us assume—what may safely be assumed in regard to three-fifths of Irish properties—that this holding is part of a Settled Estate. Can this capital sum be legally invested, so that the vendor shall not be penalized by this great national settlement? This is the problem to be solved—not in this individual case alone, but over the entire country. And, in this connection, it is all important to note that, under section 46 of the bill, it is proposed to widen and extend the powers of Trustees as to the investment of the purchase money, and lists of investments are to be prepared and issued by the rule-making authority under the Judicature Act of 1887. Under such powers it will certainly be possible for a selling landlord, even where he is the owner of an estate subject to the Settled Land Acts, to invest the purchase money at 3½ per cent. Absolute owners can, of course, invest as they think fit. The investment of £2,300 at 3½ per cent. will produce £80 10*s.* annually. Taking the Grant in Aid in this case at 10 per cent., which is the mean between 5 and 15 per cent. prescribed in the schedule to the bill, the sum accruing would amount to £230. Assuming the vendor to be a man of ordinary prudence, this money—which, by the way, is not subject to the Settled Land Acts—could easily, and with perfect safety, be invested at 4 per cent., producing an annual sum of £9 4*s.* This amount, added to the interest derivable from the capital sum, makes a total of £89 14*s.*, or, say, £90, as against the Second Term rent of £100—showing a loss, it will be said, of £10 per annum on the transaction. The loss, however, is apparent, rather than real. At the Land Conference the Irish landlords consented to an abatement of income of 10 per cent. on account of cost of collection. The Landowners' Convention agreed to and confirmed this finding. And, allowing 10 per cent. for this purpose, and taking 3½ per cent. as a reasonable investment, it will be seen that 23 years' purchase secures the landlord an income equal to his second term rent, and a much safer income to boot, without a shilling of loss. This calculation involves no alteration in the terms of the bill

as to repayment. The £2,300 can be redeemed in 69 years by a sinking-fund of 10 per cent. on an annual payment of 3¼ per cent. It goes without saying that 10 per cent. is not an adequate allowance for the outgoings upon any estate, and that, therefore, with 23 years' purchase, the way out is safe, just, and easy for the landlord. It has been assumed for the purposes of this calculation that the estate of which this holding forms part, is unencumbered—a somewhat rare thing in Ireland. But it follows that with an encumbered estate the owner comes out much better.

The Costs of Proving Title and Transfer.—These figures are not open to question. The landlord may, indeed, say that he would prefer a 3 per cent. investment as recommended by the Land Conference. No doubt. But, apart from the question that the Land Conference practically gave the Irish landlords a gilt-edged security for what, in the main, is a most precarious investment, the Conference recommendation was certainly not made on any assumption that the tenant was to pay more than a fair price for the land. It was made rather on the assumption that the State bonus would permit of liberal terms to the landlord being carried into effect. And anything that would screw up the price for the tenant in order that the security of the landlord should be inflated, would be at once unfair to the tenant and dangerous to the State as imperilling its security.

Taking a general view of this, the main feature of the bill in my opinion—and it may be taken to represent that of the average Ulster farmer—is:

That, inasmuch as any landlord can sell without loss of actual income at 23 years' purchase of the Second Term rent, tenants ought to be careful in making arrangements for purchase under the bill, not to exceed this limit. In my judgment it would be unsafe, looking at the procedure of the Land Commission as regards the fixing of Second Term rents, since the Report of the Land Conference was issued, to go beyond this rate. A rate varying from 21 to 23 years of the Second Term rent is possible. Anything beyond this limit would constitute an undue burden on the tenant, a source of danger to the State.

The Burden upon the Tax-payer.—The burden sought to be placed upon the general tax-payer by the bill is, no doubt, serious, and deserves consideration. It is of a two-fold character, consisting first of credit, and secondly of cash. It is contemplated

that, to complete the work aimed at, credit to the amount of £100,000,000 will be required. The landlords are to be paid in cash. In order to raise the necessary money, a "New Guaranteed 2¾ per cent. Stock" is to be created, and, in so far as this is done, Ireland undoubtedly receives the great benefit attached to Imperial credit. But it would be a pure delusion to imagine that the tax-payer runs any appreciable risk, or that he stands to incur any loss in these transactions. Any loss that may arise in the "flotation" operations in regard to this stock is to be made good out of the "Irish Development Fund," and a sum of £50,000 a year for four years is to be taken out of this Irish fund for the purpose. Then all the Imperial contributions to local rates in Ireland are turned into the Guarantee Fund, and made available to repair any loss that may arise. But a better security, perhaps, than these material provisions is to be found in the fact that, out of £23,000,000 already advanced under the various Purchase Acts, there has been absolutely nothing lost—Mr. Wyndham has no bad debts. There is nothing to be said as regards risk on the Bonus or Grant in Aid. Mr. Wyndham in giving a State Grant for this purpose is simply repeating the well-known fiscal operation of Mr. Gladstone in the fifties. It will be remembered that during that period Mr. Gladstone first imposed the income tax upon Ireland, and, as a solatium, wiped out the balance of the Famine Loans. The one was a permanent and, as it has proved, an increasing tax. The Famine Loans were a fixed sum, and the debt was in process of payment. It was generous, no doubt, from the English standpoint, at the time. But the income tax has cost Ireland £50,000,000 since then. The Famine Loans were a trifle of some £3,000,000. And, Mr. Wyndham, profiting by the lesson, now proposes to grant £12,000,000 as a State Bonus to the Irish landlords. This is, no doubt, a generous gift. But it is only a temporary burden on the tax-payer. At the first, the sum required, we are assured, will not exceed £390,000 a year. But the Chief Secretary, to meet this, proposes to cut down Irish expenditure permanently by £250,000 a year. This is not a bad bargain for the aggrieved British tax-payer. Despite the figures, he will, no doubt, continue to think that he is the most generous person in the world. What he really does under the bill is to permit Ireland to get rid, at her own expense, of an infamous English land system, which has poisoned her whole national life.

The Denial of the Freehold.—The bill now under discussion differs from all its predecessors in one important particular. All previous Land Purchase measures conveyed the freehold of the land to the purchaser. This bill does not pretend to do so. The purchasing tenant pays a terminable annuity on account of seven-eighths of the property. The remaining eighth is irredeemable, and constitutes a perpetual rent charge payable to the Crown. What is meant by this change in procedure? It is affirmed that the Government finds it absolutely necessary to control mortgaging, subdivision, and subletting. These are all matters of vital moment. It is imperatively necessary that this control should exist. But Sections 49, 50 and 51 provide in the most stringent manner for these very things. Under Section 49, "the proprietor of the holding shall not, without the consent of the Land Commission, mortgage or charge the holding or any part thereof for any sum exceeding ten times the rateable value thereof." And any excess of this limit is declared to be null and void. The same section provides against subdivision, and seeks to enact that "any holding subdivided without the consent of the Land Commission may be sold." These things being provided for in this way, what is the object of special State control? If such control must exist, would not a nominal quit-rent be effective for the purpose? Why destroy that sense of ownership which Arthur Young a century ago said "turned sand into gold"? And how are the proceeds of this eighth to be applied? The bill is silent on this point. Are they to go in relief of local rates, or in relief of the British Treasury? This is a provision designed, no doubt, for a good purpose. It is wholly unnecessary in its present form and ought to be resisted.

The Question of Decadal Reductions.—The method of repaying the advance by the tenant is one of the least satisfactory parts of the bill. The first Land Purchase Act—that of 1885—was a model of simplicity. It provided for the advance of the whole of the purchase money, the tenant repaying the entire advance, including interest, in 49 years by means of a 4 per cent. annuity. Under the Act of 1896, this simple method was altered, and, by a rearrangement of the terms of repayment to 73 years, what are called Decadal Reductions were allowed—stock being taken at the close of each of three decennial periods, and a new account opened. This method involved a considerable lengthening of the

period of repayment—from 49 to 73 years. But the Irish tenant purchaser had no strong views upon this point. Indeed, as a rule, he has shown, by accepting the decadal system, which was purely optional, that he prefers posterity to bear its share of the burden. The great recommendation of the system was that it gives three ten per cent. reductions during the first thirty years of the agreement. This was not only a considerable matter for the small purchaser. It was a great security for the State. It is unfortunate that the terms of the bill necessitate the abolition of the decadal system. With the period of 68½ years for repaying as fixed and a sinking-fund of 10 per cent., it would be impossible to increase the period to the extent necessary to warrant the maintenance of the reductions. But there will probably be a great effort made to alter the whole plan of the bill, both as regards the purchase price and the method of repayment.

The Question of Compulsion for the Tenants.—The framers of the bill have, to a very large extent, steered clear of any attack upon the rights of the tenantry under the Act of 1881. The storm raised upon clause 36 of the bill of last session has secured this measure of immunity, although it would be unwise to conclude that all danger is over on this head. The House of Lords has still to be reckoned with. But the question of the tenants' rights under the Act of 1881 is distinctly raised under Section 17 and one or two sub-sections of the bill. This section reads thus:

"Where an estate is purchased by the Land Commission, and (*a*) tenants on the estate, to the extent of three-fourths in number and rateable value, have agreed to purchase their holdings; or (*b*) the Lord Lieutenant has dispensed with the condition as to undertakings to purchase holdings, and a majority in number of the tenants have agreed to purchase their holdings, no proceedings to fix the fair rent of any holding on the estate shall be taken or continued."

The recalcitrant minority upon all such estates will be, after purchase, the tenants of the Land Commission; and the pressure applied by the clause is clearly intended to penalize all such tenants, and so avoid the difficulty of the Land Commission acting as the State landlord in such cases. Apart from the reluctance to permit any infringement of the provisions of the Act of 1881, there does not appear to be any great difficulty in applying pressure to a minority of one-fourth. Clearly the line must be

drawn somewhere in all such cases. A small minority on any estate ought not to be permitted to prevent, or even to endanger, purchase on the part of the great majority. But the question is wholly different when, by the intervention of the Lord Lieutenant, a simple majority can over-ride everything—when 51 men can penalize 49. It is curious also to note that the tenants who refuse to buy are alone sought to be penalized. There is no provision for penalizing landlords who refuse to sell. Suppose it were sought to be enacted that landlords refusing to sell should receive rent on the scale of the purchase annuties in their vicinity, what would be said? Or again, what would be said to any proposal that would compel a landlord, after he had moved and put the Land Commission to the heavy expense of inspection, to sell upon the terms named by that Department? The path of safety clearly points in the direction of putting no pressure upon the tenant, unless corresponding pressure is applied to the landlord.

The Congested Districts Problem.—It will probably be found, when the bill is closely and critically examined, that the question of the Congested Districts has been grasped by a nerveless hand. It is true that the income of the Congested Districts Board is increased by £20,000. This additional income, however, comes out of a fund as distinctly Irish as the Church Surplus is Irish. And, with all the talk of English generosity, it will be found that, ultimately, so far as this question is concerned, Ireland will be called upon to pay to the uttermost farthing for her own redemption. It is also true that under Section 2 very valuable provisions are sought to be included. Under this section small holdings may be enlarged. The son of a tenant may purchase untenanted land. Tenants in the vicinity of untenanted land may also purchase. Tenants evicted since 1879, and caretakers, may also become the purchasers either of their old or of new holdings. Notwithstanding limitations which may probably be wholly or partially removed, these provisions are valuable. And, again, the Land Commission may purchase congested estates even at a loss, and spend money upon their improvement pending resale to the tenants. But the resettlement of the West has still to be faced. There is no adequate reorganization of the Congested Districts Board itself. There are no compulsory powers granted for the acquisition of those grass ranches which stand between the people and decent lives. So far as this—in every respect the most acute part

of the entire problem—is concerned, the bill is but a beginning, let us hope, of better things.

Administration of the Act.—On this vital point it is only fair to say that no mistake has been made. During the past thirty years, Parliament has been engaged in passing measures for the relief of tenants. These measures have invariably been committed to landlords to administer, and the result is well known. But in this case a new and most wholesome departure has been undoubtedly made. The Commissioners named need not be described as unexceptionable. There is no necessity for exaggeration. Mr. Wrench is, of course, a landlords' man. But there must, of necessity, be a representative of the landlords upon the Commission. Mr. Wrench is a man who has had wide experience as a Land Commissioner, and he is a gentleman quite capable of taking broad views of things, if it should happen to be necessary to do so. Mr. Finucane may safely be taken as the nominee of Sir Anthony McDonnell, and any one who had a share in the great agrarian work carried through by Sir Anthony in India may well be taken on trust; whilst Mr. W. F. Bailey is well known throughout Ireland, and especially in Ulster, as perhaps the most efficient and experienced of all the men on the staff of the Land Commission. There is, however, one serious flaw to be noticed in this connection. The work of these gentlemen is to be purely administrative and, therefore, will be subject to review in Parliament. Their appointment should, therefore, be subject to "good behavior," not "during pleasure."

The Question of the Laborers.—Upon this serious issue, the bill wholly fails. In the month of February last, Mr. William Moore, K.C., M.P., speaking at the South-Antrim election, stated that he was authorized to announce that a Laborers' bill would be introduced during the present session by the Government. Mr. Moore happens to be one of Mr. Wyndham's private secretaries, and therefore his words had more weight than they would have otherwise carried. But Part IV. of the bill completely dashes any hopes that the laborers may have entertained. Apart from widening the definition of the term "agricultural laborer," the bill does nothing for this class. And there cannot be a doubt that the failure of the Government to deal effectively with this part of the question will give rise to serious trouble in, at least, the province of Ulster, where the operation of the Laborers' Acts has,

to a large extent, been rendered nugatory by the action of the local authorities.

The Application of the Bonus.—By the first schedule of the bill the application of the State Grant in Aid is regulated. By universal consent this schedule must be improved out of existence. It proposes, beginning with the estates where the purchase money is £5,000, to allow 15 per cent. as a bonus. It ends with estates where the purchase money is £40,000, and it reduces the bonus by a sliding scale to 5 per cent. Any such arrangement must work injustice. And the question presents itself irresistibly, Why should not the bonus be so used as to induce sales quickly? Why not propose a bonus of 10 per cent. on all estates noticed for sale within twelve months from the passing of the act, lessening it to a smaller sum after that period? This would, of course, be compulsion by inducement or attraction. But the country has a right to know as soon as possible the exact amount of its liability in this respect. And the tenants have an equal right to know who the landlords are who intend to sell, and who are determined to resist all inducement.

General Provisions.—There is a great multitude of important minor provisions in the bill concerning which detailed comment is unnecessary. The Land Judges Court, for example, is dealt with, and, it must be said, most inadequately. This is one of the great blots on the bill. A landlord can secure an advance upon demesne and other land in his possession. Untenanted land may be purchased to facilitate sale or redistribution of holdings. Superior rights are vested in the Crown. Sub-tenants may purchase in certain cases. An owner capable of selling is a person who has received rent for six years; but, whilst this fact gives such a person title to sell, it does not give title to the purchase-money should other claimants arise. Regulations as to turbary are provided. Boundary and other disputes may be settled by the Land Commission. Superior interests are provided for. And, finally, the Land Law portion of last year's bill is inserted almost bodily into the present measure.

Provisions as to Land Law.—By Section 77 a Sub-Commission shall, for the purpose of hearing any appeal under the Land Law Acts, consist in future of one legal Assistant-Commissioner and one lay Assistant-Commissioner. A qualified lay assessor shall sit in future with one Judicial Commissioner to hear appeals. In

cases of fixing a fair rent, where the rent is under five pounds, it may be fixed on the report of a single valuer, no appeal being allowed save on one or other of the following conditions:

(1) That the applicant is not entitled to have a fair rent fixed;

(2) That the conditional order is bad on the face of it; or

(3) That the rent has been varied more than 20 per cent.

This is a matter that will require a good deal of consideration before sanction is given. Indeed, it might be safer to drop this part of the bill entirely. But none of these points is of the essence of the bill.

The great issues upon which hang all the law and the prophets may thus be defined:

First. Will £12,000,000 bridge the gap between the sum which the tenant, in justice to himself, and with safety to the State, can afford to pay, and the sum which the landlord, under all the circumstances of the case, can afford to accept?

In attempting to answer this question, I frankly avow that I could have wished the Grant in Aid had been at least £16,000,000. The increase would have made a mighty difference in the smooth working of the measure. And I am one of those who firmly believe that Irish economies could have easily been increased from £250,000 to the extent of £500,000 a year so as to justify the increased sum. But it is ungracious to look a gift horse in the mouth. It is unfair not to recognize the extreme difficulties of the financial situation. And, seeing that the process of transfer must for financial reasons be slow at first, and that, once started, this peaceful revolution can never be stopped for want of money, I am disposed to acquiesce in the amount of the grant—expressing my belief that it will, in the end, be found inadequate to complete the work.

Secondly. Can the financial arrangements of the bill as to the price to be paid for the freehold by the tenant, be so arranged as to secure that the maximum price on the Second Term rents shall be 23 years' purchase? I believe this can be done without risk to the State and, as has been shown, with perfect fairness to the selling landlord. If the bill can be so amended as to secure this, with the decadal system restored as in the Act of 1896, then success is assured.

Thirdly. The unsolved problem of compulsion undoubtedly raises a most serious question. I now find large numbers of men

hitherto strongly opposed to compulsory sale declaring that a complete settlement cannot be secured without compulsion, and that it is not worth while paying for anything that is not complete and final. These latter-day converts to compulsion are logical to a degree. But those of us who have borne the burden and heat of a hard fight, and who sincerely desire to see this question settled, may be pardoned if we hesitate about substituting what is, at present, an impossible "best" for that which is undoubtedly a possible "good." This bill when it becomes a Statute of the Realm will aim at making it the interest of every landlord to sell, and the interest of every tenant to buy. It is, of course, quite certain that there are Irish landlords who will refuse to sell upon any terms—landlords whose feudal ideas and whose financial resources have survived even the strain of the Irish Land Acts. It may even be that there are others actuated by no such ideas, men for whom the inducements of the bill will not suffice. All this, doubtless, will come about. But in the not distant future the position of such landlords, and of their tenants as well, will be an impossible position. It cannot endure, and sentence will be passed upon all such men.

Finally, the bill will require the closest scrutiny before the Committee stage. Amendments such as have been indicated here and others must be framed and passed. But, subject to such amendments, the bill, in my opinion, gives promise of a future for Ireland that may well rejoice the hearts of all who love the country and desire its welfare.

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